

House Bill 1201 (AS PASSED HOUSE AND SENATE)

By: Representatives Day of the 163rd, Neal of the 1st, and Stephens of the 164th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency management, so as to require permission for use of the Georgia Emergency Management Agency's nomenclature and symbols; to provide a short title; to provide for liabilities and penalties; to provide that a willful violation shall be a misdemeanor; to provide for definitions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency management, is amended by inserting a new article to read as follows:

"ARTICLE 9

38-3-140.

This article shall be known and may be cited as the 'Georgia Emergency Management Agency Nomenclature Act of 2008.'

38-3-141.

As used in this article, the term:

(1) 'Badge' means any official badge, identification card, or security pass used by members of the Georgia Emergency Management Agency, either in the past or currently.

(2) 'Director' means the director of the Georgia Emergency Management Agency.

(3) 'Emblem' means any official patch or other emblem worn currently or formerly or used by the Georgia Emergency Management Agency to identify the agency, a division of the agency, or employees of the agency.

(4) 'Person' means any person, corporation, organization, or political subdivision of the State of Georgia.

(5) 'Seal' means any official symbol, mark, or abbreviation which represents and is used, currently or in the past, by the Georgia Emergency Management Agency or any other division or operation under the command of the Georgia Emergency Management Agency to identify the agency, a division of the agency, or employees of the agency.

(6) 'Willful violator' means any person who knowingly violates the provisions of this article. Any person who violates this article after being advised in writing by the director that such person's activity is in violation of this article shall be considered a willful violator and shall be considered in willful violation of this article. Any person whose agent or representative is a willful violator and who has knowledge of the violation by the agent or representative shall also be considered a willful violator and in willful violation of this article unless, upon learning of the violation, he or she immediately terminates the agency or other relationship with such violator.

38-3-142.

Whoever, except with the written permission of the director, knowingly uses the words 'Georgia Emergency Management Agency,' 'Emergency Management Agency,' or 'GEMA' in referring to Georgia's Emergency Management Agency in connection with any advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by or associated with the Georgia Emergency Management Agency shall be in violation of this article.

35-3-143.

Any person who uses or displays any symbol, including any emblem, seal, or badge, current or historical, used by the Georgia Emergency Management Agency without written permission from the director shall be in violation of this article.

38-3-144.

Any person seeking permission to use or display the nomenclature or symbols of the Georgia Emergency Management Agency may request such permission in writing to the director. The director shall serve notice on the requesting party within 15 calendar days after receipt of the request of his or her decision on whether the person may use the nomenclature or the symbol. If the director does not respond within the 15 day time

1 period, then the request is presumed to have been denied. The grant of permission under
2 this article shall be at the discretion of the director and under such conditions as the director
3 may impose.

4 38-3-145.

5 Whenever there shall be an actual or threatened violation of this article, the director shall
6 have the right to apply to the Superior Court of Fulton County or to the superior court of
7 the county of residence of the violator for an injunction to restrain the violation.

8 38-3-146.

9 In addition to any other relief or sanction for a violation of this article, the director shall be
10 entitled to collect a civil penalty in the amount of \$1,000.00 for each violation from a
11 willful violator. Further, the director shall be entitled to recover reasonable attorney's fees
12 for bringing any action against a willful violator.

13 38-3-147.

14 Any person who has given money or any other item of value to another person due in part
15 to such person's use of agency nomenclature or symbols in violation of this article may
16 maintain a suit for damages against the violator. Where it is proven that the violation was
17 willful, the victim shall be entitled to recover treble damages, punitive damages, and
18 reasonable attorney's fees.

19 38-3-148.

20 Any willful violator shall be guilty of a misdemeanor and upon conviction thereof shall be
21 subject to a fine of not more than \$5,000.00 or to imprisonment for not more than 12
22 months, or both. Each violation shall constitute a separate offense."

23 **SECTION 2.**

24 This Act shall become effective upon its approval by the Governor or upon its becoming law
25 without such approval.

26 **SECTION 3.**

27 All laws and parts of laws in conflict with this Act are repealed.